

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARTIN J. WALSH,  
Secretary of Labor,  
United States Department of Labor.

Case No.

**COMPLAINT – LABOR;  
29 U.S.C. § 660(c)**

Plaintiff,  
v.  
UNITED STATES POSTAL SERVICE,  
Defendant

## COMPLAINT

1. Plaintiff Martin J. Walsh, Secretary of Labor, U.S. Department of Labor (“Plaintiff” or the “Secretary”), brings this action for injunctive and other relief, pursuant to Section 11(c) of the Occupational Safety and Health Act of 1970, as amended, (29 U.S.C. §§ 651-78) (“the Act”), seeking to enforce the provisions of Section 11(c) of the Act.

2. Jurisdiction of this action is conferred upon the Court by Section 11(c) of the Act, 29 U.S.C. § 660(c)(2).

3. Defendant United States Postal Service (“USPS”) sorts and delivers mail out of a facility located in East Vancouver, Washington, which is within the jurisdiction of this Court. Defendant USPS is now, and was at all relevant times, a person as defined in 29 U.S.C. § 652(4)-(6).

4. On or about October 2, 2020, Samuel Sweezer began working for Defendant USPS as a City Carrier Assistant (“CCA”) at the East Vancouver, Washington facility.

1       5.     Because he was a new employee, Mr. Sweezer was hired subject to a new-employee 90-  
2 day probationary period, which was scheduled to end on or about January 1, 2021. Mr. Sweezer's last  
3 day of employment with Defendant USPS was November 30, 2020. At all relevant times, Mr. Sweezer  
4 was an employee of Defendant USPS as defined in 29 U.S.C. §§ 652 (5)-(6).

5       6.     Mr. Sweezer's assigned supervisor at Defendant USPS before he was terminated was  
6 Mike Woodard.

7       7.     On Sunday, November 29, 2020, Mr. Sweezer suffered an injury at work while he was  
8 still a probationary employee.

9       8.     Mr. Sweezer reported his injury immediately to the supervisor on duty, Aleksandr  
10 Navarro. Mr. Navarro only supervised Mr. Sweezer on this date.

11       9.     On November 29, 2020, Mr. Sweezer sought medical care for his injury.

12       10.    To assist him in receiving medical care, Defendant USPS' on duty supervisor, Aleks  
13 Navarro, drove Mr. Sweezer to a medical facility to obtain care on November 29, 2020. Mr. Sweezer  
14 obtained a doctor's note excusing him from work because of the on-the-job injury he sustained.

15       11.    On or around November 29, 2020, the Acting Postmaster for Defendant USPS at its East  
16 Vancouver facility, Trisha Adams, interviewed just two USPS managerial employees—Mr. Navarro and  
17 Ms. Joanne Dunn—regarding Mr. Sweezer.

18       12.    Acting Postmaster Adams did not know Mr. Sweezer personally and became the Acting  
19 Postmaster at USPS' East Vancouver facility earlier in November 2020.

20       13.    On November 30, 2020, the day after Mr. Sweezer's on-the-job injury, Acting Postmaster  
21 Adams decided to terminate Mr. Sweezer solely based on her interviews of Mr. Navarro and Ms. Dunn.

22       14.    On November 30, 2020, Acting Postmaster Adams terminated Mr. Sweezer via a  
23 certified letter. This terminating letter asserted:

24       This is your official notice that you will be separated from the Postal Service on close of  
25 Business 11/30/2020. While we had hoped for your success in your endeavor, you have  
26 failed to work in a safe manner. Safety is my upmost concern and the ability to work in a  
27 safe manner while completing your daily duties is essential. All employees are  
28 responsible for performing all duties in a safe manner and are expected to discharge their  
assigned duties conscientiously and effectively, you have failed to do so.

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15. In its January 15, 2020, position statement to the Occupational Safety and Health Administration (“OSHA”), Defendant USPS suddenly added an additional reason for terminating Mr. Sweezer—the text message he sent to his assigned supervisor, Mr. Woodard, on November 30, 2020, 2020.

16. In OSHA’s June 10, 2021, interview of the terminating official, Ms. Adams suddenly identified still another reason for terminating Mr. Sweezer on November 30, 2020—his poor attitude. On June 10, 2021, Ms. Adams only identified two reasons for terminating Mr. Sweezer on November 30, 2020: not working in a safe manner and his poor attitude related to when and how much he worked. During her June 10, 2021, recorded interview, Ms. Adams made no mention of Mr. Sweezer’s November 30, 2020, text.

17. USPS Handbook EL-312 Employment and Placement (“USPS Handbook”) and USPS document PS Form 1750 requires that probationary employees such as Mr. Sweezer receive coverage on their initial standards and receive three evaluations for these standards during their probationary period. The initial standards coverage is to be completed within the first week of probationary employment while the three evaluations are to occur at 30 days, 60 days, and 80 days of this probationary employment. On the PS Form 1750, both the supervisor and the probationary employee “must” initial the form to document the standards coverage while just the probationary employee is required to initial the form to document when he receives each of three aforementioned evaluations.

18. Defendant USPS failed to cover and document Mr. Sweezer both on his initial standards and the evaluation thereof in accord with its procedures—indeed, Defendant USPS never evaluated Mr. Sweezer.

19. Defendant USPS never provided any documents to OSHA during its investigation showing that any of its supervisors ever evaluated Mr. Sweezer’s performance or attitude even though it provided other documents to OSHA during this investigation.

20. On December 4, 2020, Mr. Sweezer filed a formal whistleblower complaint to OSHA, alleging that Defendant USPS retaliated against him in violation of § 11(c)(1) of the Act, 29 U.S.C. §

1 660(c)(1).

2 21. Plaintiff investigated the whistleblower complaint in accordance with § 11(c)(2) of the  
3 Act and determined that Defendant USPS violated § 11(c)(1) of the Act. 29 U.S.C. §§ 660(c)(1)-(2).

4 22. By the acts described above, and by each of said acts, Defendant USPS discharged Mr.  
5 Sweezer because he exercised his rights under or related to the Act, i.e., reporting a workplace injury,  
6 and thereby Defendant USPS engaged in, and is engaging in, conduct in violation of § 11(c)(1) of the  
7 Act. 29 U.S.C. § 660(c)(1).

8 **PRAYER FOR RELIEF**

9 WHEREFORE, good cause having been shown, the Secretary of Labor prays for a Judgment  
10 against Defendant USPS as follows:

11 (1) For an Order permanently enjoining Defendant USPS, its officers, agents, servants,  
12 employees, and all persons acting or claiming to act in their behalf and interest from violating the  
13 provisions of § 11(c)(1) of the Act, 29 U.S.C. § 660(c)(1); and

14 (2) For all appropriate relief, including:

15 a. Payment to Mr. Sweezer for lost wages and benefits and compensatory damages  
16 including emotional distress damages, plus pre- and post-judgment interest accruing  
17 thereon; and

18 b. For an Order directing Defendant USPS to expunge any adverse references from  
19 Mr. Sweezer's personnel record and reinstate Mr. Sweezer with full-time employment  
20 and all attendant benefits and privileges; and

21 c. For an Order directing Defendant USPS and its officers, supervisors, and lead  
22 employees to be trained in the whistleblower provisions of the Act; and

23 d. For an Order requiring posting in a prominent place at Defendant USPS' East  
24 Vancouver, Washington facility for 90 (ninety) days a Notice stating Defendant USPS  
25 will not in any manner discriminate against employees because of engagement, whether  
26 real, perceived, or suspected, in activities protected by Section 11(c) of the Act; and

27 e. For an Order granting such other and further relief as may be necessary and

1 appropriate in this action, including costs and attorneys' fees.  
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Respectfully submitted this 4th day of January 2023.

5 SEEMA NANDA  
6 Solicitor of Labor

7 MARC PILOTIN  
8 Regional Solicitor

9 JEANNIE GORMAN  
10 Whistleblower Coordinator

11 /s/ Norman E. Garcia

12 NORMAN E. GARCIA  
Senior Trial Attorney

13 Attorneys for Secretary of Labor  
14 U.S. Department of Labor